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Yale Law School

BY ECF

The Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

MEMO ENDORSED
February 13, 2019

The Application is granted.

SO ORDERED:

Paul G. Gardephe
Paul G. Gardephe, U.S.D.J.

Dated: Feb 19, 2020

*The conference is
adjourned to
April 2, 2020
at 10:00 a.m.*

Re: *The New York Times Co., et. al. v. Food and Drug Administration*, 19 Civ. 5640
(PGG)

Dear Judge Gardephe:

I write respectfully on behalf of all parties in the above-referenced action brought under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), pursuant to the Court's October 2, 2019, Memo Endorsement (Dkt. No. 11) and the parties' September 26, 2019, Initial Report (Dkt. No. 10). The parties respectfully request a brief adjournment of the initial pretrial conference presently scheduled for February 27, 2020.

As discussed in the Initial Report, plaintiffs' request seeks records "pertaining to the Digital Health Software Precertification (Pre-Cert) Program." In particular, plaintiffs seek "[a]ll email correspondence between Jan. 1, 2017, and the present, that includes Bakul Patel and Linda Ricci" of the Food and Drug Administration (FDA) and parties with email addresses containing certain specified domain names and also containing particular keywords or variants of those keywords.

As the parties agreed in the Initial Report, the FDA has completed four productions of documents responsive to plaintiffs' FOIA request, totaling approximately 6,254 pages. Plaintiffs have reviewed the productions. The parties have corresponded and conferred regarding plaintiffs' questions and concerns about certain redactions to the records. The parties believe it would be productive to continue these discussions prior to filing a joint status report with Your Honor or having an initial pretrial conference.

In light of the above, the parties respectfully request that the initial pretrial conference presently scheduled for February 27, 2020, at 10 a.m. be adjourned to a date convenient for the Court after March 31, 2020. The parties have conferred and are available on April 1, 2, and 6, 2020. The parties further propose that they provide the Court with a joint status report no later than March 27, 2020. This is the parties' second request for an adjournment.



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We thank the Court for its consideration of this letter.

Respectfully submitted,

/s/ Charles Crain

CHARLES CRAIN

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